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9 *Company*

10 IN THE UNITED STATES DISTRICT COURT  
11  
12 IN AND FOR THE DISTRICT OF ARIZONA

13 MARTHA RODRIGUEZ, a single woman,  
14  
15 Plaintiff,

16 vs.

17 QUALITY LOAN SERVICE CORP., a  
18 California corporation; MIDFIRST BANK,  
19 a nationally chartered bank and their  
20 subsidiary MIDFIRST MORTGAGE  
21 COMPANY, an Oklahoma corporation;  
22 WELLS FARGO BANK, N.A., a national  
23 Banking association; TRES AMIGOS  
24 PROPERTIES LLC, an Arizona limited  
25 liability company; JOHN DOES I-X;  
JANE DOES I-X; ABC CORPORATIONS  
I-X; XYZ PARTNERSHIPS I-X,

Defendants.

Case No.: CV-09-01853-PHX-FJM

**DEFENDANTS MIDFIRST BANK  
AND MIDLAND MORTGAGE  
COMPANY'S STATEMENT OF  
FACTS IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT RE:  
COUNT I**

Defendants, MidFirst Bank ("MidFirst") and Midland Company ("Midland"), by and through their counsel undersigned, pursuant to Rule 56.1, Rules of Practice of United State District for the District of Arizona, submit the following as their Statement of Facts in Support of their Motion for Summary Judgment re: Count I. Defendants incorporate by this reference their Statement of Facts in

1 Support of Motion to Dismiss or, in the alternative, Motion for Summary Judgment filed on October  
2 28, 2009. (Docket No. 18.)

3 1. Pursuant to Plaintiff's First Amended Complaint, Plaintiff alleges as follows: "Plaintiff  
4 believes that Midland was not the holder of the underlying Note secured by the Deed of Trust and  
5 therefore did not have standing to conduct a Trustee's sale." (First Amended Complaint, ¶ 17.)

6 2. Plaintiff further alleges that "conducting the Trustee's sale was wrongful". (First  
7 Amended Complaint, ¶ 18.)

8 3. MidFirst was the holder of the Promissory Note at the time the trustee's sale was noticed  
9 and at the time the trustee's sale was held. (Declaration of Thaddeus Burr, attached hereto as **Exhibit**  
10 **"A"**)

11  
12 **RESPECTFULLY SUBMITTED** this 30<sup>th</sup> day of June 2010.

13  
14 McCARTHY ♦ HOLTHUS ♦ LEVINE

15 By: /s/ Paul M. Levine

16 Paul M. Levine  
17 Matthew A. Silverman  
18 3636 North Central Avenue, Suite 1050  
19 Phoenix, Arizona 85012  
20 Attorneys for Defendants MidFirst/Midland

21 ORIGINAL of the foregoing electronically filed this 30<sup>th</sup>  
22 day of June, 2010 with the Clerk of the U.S. District Court


23 By: /s/Joan B. Pyles  
24  
25

DECLARATION

I, Thaddeus Burr, upon my oath, do state as follows:

1. I am employed by MidFirst Bank as its Vice President.
2. I have personal knowledge of this Declaration and if called upon to testify, I would testify consistent with this Declaration.
3. On February 25, 2009, the date the trustee noticed the trustee's sale of the property located at 4210 W. Corrine Drive in Phoenix, Arizona, MidFirst Bank was the owner and holder of the Promissory Note dated August 19, 1987 in the original principal sum of \$75,618.00. The Note was held for safekeeping at MidFirst Bank's custodial facility 2730 N. Portland, Oklahoma City, Oklahoma 73107.
4. MidFirst Bank was also the holder and owner of the Promissory Note at the time the trustee conducted the trustee's sale and sold the property to David Bilfeld on June 30, 2009.
5. MidFirst Bank had the right and authority to proceed with a trustee's sale of the subject property.

Dated this 30<sup>th</sup> day of June, 2010.

  
Thaddeus Burr, Vice President, MidFirst Bank